

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on April 23, 2004.

The IRO reviewed CPT codes 99212, 97110, 97530, 97116, 97535, 99091, 97112, and 99358 rendered from 10/01/03 through 11/25/03 that was denied based upon "V".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On July 29, 2004, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

- CPT Code 99212 for date of service 10/01/03. The submitted EOB shows payment was made, however, the health care providers billing agent was contacted on 9/29/04 to check the status of this date of service and it was discovered payment was not received. Therefore, per Rule 134.202(b) and the Medicare Fee Schedule reimbursement in the amount of \$47.23 (\$37.78 x 125%) is recommended.
- CPT Code 99212 for date of service 10/20/03 denied as "175, 940, O and F – Services have been previously paid, re-evaluation – no additional payment recommended, denial after reconsideration, and Fee Guideline MAR Reduction". The submitted EOB shows payment was made, however, the health care providers billing agent was contacted on 9/29/04 to check the status of this date of service and it was discovered payment was not received. Therefore, per Rule

134.202(b) and the Medicare Fee Schedule reimbursement in the amount of \$47.23 (\$37.78 x 125%) is recommended.

- CPT Code 99080-73 for dates of service 10/08/03 and 11/25/03. The carrier denied CPT Code 99080-73 with a V for unnecessary medical treatment based on a peer review, however, the TWCC-73 is a required report and is not subject to an IRO review. Per Rule 129.5 and 133.106(f) reimbursement in the amount of \$30.00 (\$15.00 x 2) is recommended.

On this basis, and pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable to dates of service 10/01/03 through 11/25/03 in this dispute.

The respondent is prohibited from asserting additional denial reasons relative to this Decision upon issuing payment to the requestor in accordance with this Order (Rule 133.307(j)(2)).

This Decision is hereby issued this 1st day October 2004.

Marguerite Foster
Medical Dispute Resolution Officer
Medical Review Division

MF/mf

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 10/01/03 through 11/25/03 in this dispute.

This Order is hereby issued this 1st day of October 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/mf
Enclosure: IRO Decision

July 1, 2004

Rosalinda Lopez
Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

Re: Medical Dispute Resolution
MDR #: M5-04-2652-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 5055

Dear Ms. Lopez:

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am ___ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: office visits, physical therapy notes, EMG exam, operative and radiology reports and designated doctor exam.

Information provided by Mobile Diagnostic of Texas: office notes, nerve conduction study and radiology report.

Clinical History:

The patient suffered a work-related injury involving his low back on _____. He continued to work his regular shift. That night he had difficulty sleeping due to increasing pain. The next day, he arrived at work and was seen by the company doctor. He continued to experience pain and discomfort, and he sought care in another office.

An initial evaluation was performed and a treatment program was begun. Over the course of treatment, the patient underwent passive therapy and progressed into an

aggressive rehabilitation active program. He was also seen by a specialist who prescribed medication and ordered a series of epidural steroid injections. Appropriate diagnostic testing in the form of an MRI and EMG confirmed the significance of his injuries. The most recent office notes that I have received indicate the patient is a candidate for surgical intervention,

Disputed Services:

Outpatient office visits-established, exercises, therapeutic activities, gait training, self care/home management training, analysis of clinical data, neuromuscular re-education, and prolonged E&M before/after direct patient care, during the period of 10/01/03 through 11/25/03.

Decision:

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the treatment and services in dispute as stated above were medically necessary in this case.

Rationale:

The National Treatment Guidelines allow for this type of treatment in this type of injury. There is sufficient documentation on each date of service to clinically justify all services that were rendered during the period of 10/1/03 through 11/25/03.

The records clearly indicate this patient was significantly injured and needed an aggressive treatment program. An attempt at conservative care in conjunction with medication did not afford sufficient response. The need for lumbar epidural steroid injections became evident, was pre-authorized, and completed.

The fact that this patient did not respond favorably to conservative care as expected is not justification for denial of these services. In fact, it is reasonable, usual, customary, and medically necessary for the patient to receive office/outpatient visit-established, exercises, therapeutic activities, gait training, self care/home management training, analysis of clinical data, neuromuscular reeducation, and prolonged NME before and after direct patient care during the period of 10/1/03 through 11/25/03.